

## **GOVERNOR'S TASK FORCE ON EDUCATIONAL EXCELLENCE SPECIAL EDUCATION SUBCOMMITTEE**

### **Subcommittee Charge**

Consider and recommend ways to adequately fund special education, including ways to share special education costs more evenly across the state, while assuring that public education is available to all.

### **Problem Statement**

Using the Governor's Executive Order as a starting point, the subcommittee members identified five areas of concern:

- Funding
- Accountability
- Paperwork/Process
- Programmatic
- Public Awareness

### **Subcommittee Meetings**

The Special Education Subcommittee met on four different occasions:

- December 11, 2003 (Milwaukee Area Technical College)
  - Members Present: Mark Bugher (chair), Bill Andrekopoulos, Jerry Deschane, Tom Hall, Thai Lee, Cecilia Millard

The first subcommittee meeting was organizational in nature. The subcommittee members had a general discussion about special education in Wisconsin and reflected on the Department of Public Instruction's presentation on this subject at the task force meeting in Wausau.

- January 5, 2004 (Department of Administration Building)
  - Members Present: Mark Bugher (chair), Bill Andrekopoulos (via phone), Jerry Deschane, Tom Hall (via phone), Thai Lee (via phone), Cecilia Millard (via phone), Tim Scobie (via phone)
  - Speaker: Mr. John Jorgensen, Madison Public School System

At the invitation of Mr. Bugher, Mr. Jorgensen made a presentation to the subcommittee describing his special education work with the Madison Public School System. Mr.

Jorgensen's presentation was followed by questions from the subcommittee members. At the meeting's close, Mr. Bugher asked the subcommittee members to develop potential recommendations for the next subcommittee meeting.

- January 28, 2004 (State Capitol)
  - Members Present: Mark Bugher (chair), Bill Andrekopoulos, Jerry Deschane, Tom Hall, Thai Lee, Cecilia Millard

Following Mr. Bugher's charge from the previous subcommittee meeting, the members brought their specific concerns and recommendations to the meeting. The members spent the entire length of the subcommittee meeting debating various issues. Mr. Bugher asked staff to prepare a briefing document for the next subcommittee meeting. It was Mr. Bugher's hope that the subcommittee members could use such a document as a starting point for making final recommendations to the full committee.

- February 27, 2004 (State Capitol)  
(morning and afternoon sessions)
  - Members Present: Mark Bugher (chair), Bill Andrekopoulos, Jerry Deschane, Tom Hall, Thai Lee, Cecilia Millard
  - Speaker: Mr. Don Severson, Active Citizens for Education (afternoon session)

At the morning session, staff distributed the briefing document to members and then discussed the options contained therein. Members asked questions and made suggestions for additional options to be included. Members agreed that they would use the afternoon session to make final decisions regarding the various options.

At the afternoon session, Mr. Severson spoke about his organization's efforts. Mr. Bugher led the ensuing discussion in which the subcommittee members made their decisions regarding recommendations.

## **Literature/Research Review**

Dr. Stephanie Petska and Carolyn Stanford-Taylor from the Department of Public Instruction made a presentation to the full committee on November 6, 2003 at the committee's meeting in Wausau. Dr. Petska and Ms. Stanford-Taylor presented the following data:

- The total number of children with disabilities in Wisconsin, the rate of growth in special education, and the incidence rate broken down by various categories (school district, socioeconomic status, race/ethnicity).
- Funding sources for special education (state equalization aid, state special education categorical aid, federal special education categorical aid, local property tax).

- Funding formulas for special education (weighting, census-based, resource-based, block grant, percentage reimbursement).

The presentation made by Dr. Petska and Ms. Stanford-Taylor became the starting point from which the subcommittee began to discuss special education issues. The department's presentation was based on material from the following sources:

- The National Center for Special Education Finance
- "Special Education Eligibility Criteria Study," University of Wisconsin-Oshkosh, 2003
- "The Twenty-fourth Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act," United States Department of Education, 2002
- "An Evaluation of Special Education Funding," Wisconsin Legislative Audit Bureau, 1999
- Department of Instruction financial and incidence rate data

Additional studies in the area of special education include:

- "Financing (Or the Cost Of) Special Education," American Institutes of Research, October 25, 2003
- "Effects Of Funding Incentives On Special Education Enrollment," Center for Civic Innovation at The Manhattan Institute, December 2002
- "Special Education Eligibility Criteria Study – Baseline Progress, February to June 2002," The Department of Public Instruction, August 2002

## Recommendations

Using the five areas of concern identified in the problem statement as a guide, the subcommittee developed recommendations for the full committee's approval. Responding to the Governor's charge, the subcommittee spent considerable time discussing the present state of special education **funding** in Wisconsin. Having discussed this issue at length, the members developed the following recommendations:

- (1) Explore the possibility of utilizing an alternative-funding source for preK-12 education as part of a comprehensive reorganization of public school funding in Wisconsin.

Justification: The subcommittee had wide-ranging discussions about the extent to which funding (federal, state, local) for special education is sufficient in Wisconsin. The subcommittee members discussed the four major funding sources for special education – state equalization aid, state categorical aid, federal categorical aid and local property taxes – and the extent to which they are keeping pace with perceived needs.

While the subcommittee members expressed reservations about the current state of special education funding in Wisconsin, the members decided against making a recommendation specific to special education at this time. The general consensus of the members was that any discussion of funding changes for special education (additional funding, alternative funding sources) should be held in the context of the full committee's deliberations on school finance reform. Since special education is so deeply entwined with other aspects of the current school finance system, the members were reluctant to make specific recommendations for special education in isolation from the many other components of school finance.

However, the subcommittee was very concerned that no further erosion occurs in the state's commitment to funding special education. In the event that no reasonable funding solution addressing the special education issue arises from the full committee deliberations, the subcommittee may revisit this issue to develop an alternate recommendation.

The subcommittee also discussed the possibility of providing local property tax relief in proportion to any increases in funding for special education. Despite extensive discussions, the members could not reach agreement on this matter. Mr. Bugher agreed to table the recommendation but noted he would raise the issue before the full committee.

The subcommittee was interested in at least exploring the possibility of developing an alternative funding source for preK-12 education and included a recommendation to that effect.

Estimated Cost: Unknown – contingent on further action by the full committee.

(2) Create a new categorical aid appropriation to reimburse school districts for costs associated with high-cost special education students:

- Specify that funding for this purpose will derive from (a) repealing existing sales tax exemptions as a means of generating additional revenue; and/or (b) supplanting expenditure authority in existing appropriations as a means of generating funding for this purpose.
- Specify that funding from any new appropriation would be paid out before funding from appropriation 20.255(2)(b) – Aids for special education and school age parents is distributed.

Justification: The subcommittee spent considerable time addressing the problems associated with educating high-cost special education students. While the subcommittee's discussion of this issue ranged widely, two themes predominated:

- That high-cost special education students can place severe strain on a school district's budget.
- That school district attempts to direct resources toward high-cost special education can generate severe criticism that resources for general education are being funneled into special education.

In response to this problem, the subcommittee wanted to develop a bold solution. The consensus of the subcommittee was that the state should create a new, sum-certain categorical aid appropriation to meet the needs of those school districts with significant costs associated with high-cost special education students.

Funding for this new appropriation would not be generated by moving expenditure authority from the Department of Public Instruction's existing categorical aid appropriation for special education reimbursement. Instead, the subcommittee members argued that the state should generate new funding for this purpose by examining existing exemptions from the state sales tax and repealing some of them.

Alternately, the subcommittee members discussed the possibility of shifting funding in one or more existing General Purpose Revenue appropriations on to a different funding source. The stated goal of this funding shift would be to free up General Purpose Revenue for use in a high-cost special education appropriation. The subcommittee would only countenance the transfer of General Purpose Revenue to this new appropriation if the state could find an alternate fund source for the original appropriation (if that funding need remained necessary.) The

members in no way wish to harm an existing appropriation in order to fund a high-cost special education appropriation.

Likewise, the members would like to state that a move toward high-cost special education reimbursement might have different funding ramifications for school districts, depending on the relative impact of high-cost/low-incidence students in the district.

Estimated Cost: Trying to ascertain the level of financial need associated with high-cost special education proved to be a vexing question for the subcommittee. Under the leadership of State Superintendent Elizabeth Burmaster, staff at the Department of Public Instruction have been conducting an assessment of school districts. The point of the assessment is to identify the potential number of high-cost special education students in Wisconsin by school district.

As of February 23, 2004, 126 school districts have responded to the department's request for information and have identified 527 students who they consider high-cost. However, the department has significant reservations about this data. First, only 126 school districts have responded. This leaves 300 school districts unaccounted for. Second, the department has not yet audited the submitted data. As a result, there may be individuals reported as high-cost that may not meet the criteria due to ambiguities in the reporting process.

Since the data is not definitive at this point, it is impossible to know with any precision how many high-cost special education students there are in Wisconsin. In consequence, the cost associated with a new, high-cost special education appropriation cannot be determined at this time. (The swing could be anywhere from several million to well in excess of \$10 million.)

Another factor complicating the determination of cost is that the subcommittee members could not reach consensus on a dollar-figure for a high-cost special education student. While there was general subcommittee support for a \$30,000+ figure that would act as a threshold amount for designating a high-cost student, other members of the subcommittee questioned whether the figure should actually be lower. Failing to come to consensus, the subcommittee members decided to make no definitive recommendation in regard to assigning a numerical figure to a high-cost special education student.

While there were certain challenges in ascertaining data, the subcommittee felt strongly that a recommendation should be made in this area. Since there will be more – and better – data in the near future, the subcommittee wanted to forward a definitive recommendation. Once additional, audited data is available, a costing out process can begin.

- (3) Explore the possibility of providing fiscal relief to school districts for costs incurred by enrolling high-cost special education students after local levies are set. Relief would be retroactive and would be made early in the fiscal year following the fiscal year in which the costs were incurred. This would be similar to the current method of distributing certain categorical aids with the caveat that the relief be granted as early as possible.

Justification: In discussing high-cost special education students, the subcommittee also addressed the possibility of providing fiscal relief to school districts where high-cost special education students enroll after local levies are set. A high-cost special education student who enrolls mid-year might engender significant, unbudgeted costs for a district that can draw resources away from other aspects of the school district's budget.

To alleviate this problem, the subcommittee members wanted to encourage the state to consider making school districts "whole" for unanticipated costs. One suggestion was to grant retroactive relief to school districts in the fiscal year following the fiscal year in which the costs were incurred.

Estimated Cost: Funding for this purpose could either come from making a nonrecurring adjustment to school district revenue limits or from a new categorical aid program. The level of funding would depend on the availability of funding and the extent to which the Department of Public Instruction can gauge the extent of the need.

On a related note, the subcommittee would like the department to review its surveys for measuring costs at the school district level. There was some concern that the surveys were too labor intensive for some school district respondents and that this caused some school districts not to participate. The subcommittee would like to see all school districts participating in such surveys.

Related to the discussion about funding, the subcommittee members discussed potential **programmatic** changes to the special education system. There was some perception that the system as it presently exists could be more effective in its provision of resources. To this end, the subcommittee made the following recommendations:

- (4) Direct the Department of Public Instruction, the Department of Health and Family Services, the Department of Workforce Development and other state agencies engaged in the provision of services to individuals with special needs to do the following:
- Conduct an assessment of existing state resources in the areas of education, health and school-to-work as they apply currently to individuals with special needs.

- Measure the extent to which state agencies are working together to provide services in the most effective manner possible.
- Specify that agencies should develop a streamlined, nonduplicative process for the provision of services to individuals with special needs. Further specify that the resulting process should reduce duplication of cost and effort.
- Direct state agencies to engage local governments and school districts in any attempt to streamline existing efforts.

Justification: The subcommittee members expressed concerns about the extent to which the state provides services to individuals with special needs in a coordinated fashion that is easily utilized by citizens participating in the process. The members were of the opinion that the system as it presently exists is neither easily comprehensible nor easily navigated.

To this end, the subcommittee members would like to see a greater accounting on the state's part of what programs are in existence and what funding sources exist to support these programmatic responsibilities. From there, the subcommittee thought it would be useful to know how these different components fit together to create a seamless whole.

If, during this process, it is found that the system as it presently exists is less than optimal, then the state agencies involved should partner with one another to develop a better process that is more readily accessible by those in need of services. For instance, members would like to see greater coordination between the Department of Public Instruction and the Department of Health and Family Services in meeting the medical and mental health needs of high-cost special education students.

Central to any redesign would be an active engagement with local governments and school districts. For example, the state could facilitate increased cooperation between school districts and county agencies regarding the provision of funding and services.

Estimated Cost: None

- (5) Encourage the Department of Public Instruction to continue to work with school districts to provide special education services in the most streamlined and cost-effective manner as possible.

Justification: The subcommittee found no evidence to support the belief that school districts are prescribing special education services indiscriminately. For instance, the Department of Public Instruction provided nationwide data demonstrating that Wisconsin ranks in the middle of all fifty states in its identification rate of special education students. Still, the members were mindful that the provision of special education services should be a cost-effective one.



To this end, the subcommittee feels that the Department of Public Instruction should continue to work with school districts to insure that they are providing services in an effective way. The department should encourage statewide efforts to reduce the costly duplication of services, promote the use of technology support and remind state and federal lawmakers that excessive monitoring and oversight requirements can have significant cost burdens. As the chief educational agency in state government, the department is uniquely positioned to provide policy and fiscal oversight to the entire process.

Estimated Cost: None

- (6) Support investments in early childhood as a means of reducing the need for other educational and social services later in adolescence. (Examples of such investments would include SAGE, four-year-old kindergarten and child care.) Grant school districts the maximum possible flexibility to administer early education programs.

Justification: During the subcommittee's deliberations, much discussion centered on the idea that early and significant investments in early childhood/education might lead to reductions in special education referrals and services later in a child's academic life. There was strong support among the subcommittee members for maintaining the state's current level of support for such programs as SAGE and four-year-old kindergarten.

Furthermore, the members wished to strongly encourage the Governor to increase state investments in programs like SAGE and four-year-old kindergarten and to make substantial investments in quality childcare. While recognizing the difficult financial straits in which the state currently finds itself, the members wanted to make clear that a strong commitment to preventative measures during a child's pre-school and elementary school life may ultimately reduce state costs as the need for certain special education services declines due to targeted action on the front-end of a child's academic life.

Lastly, the subcommittee members wanted to stress the importance of giving school districts the maximum possible flexibility in tailoring state-funded programs to the specific circumstances found in each school district.

Estimated Cost: None, although any additional investment in early childhood would require additional state resources.

- (7) Reiterate the importance of parental involvement in the early education of children.

Justification: The subcommittee's discussions focused on many different aspects of special education policy as they relate to the state's efforts to properly address special education needs.

However, the members also concluded that parental involvement in the early education of children is a significant factor in the development of children and that significant parental involvement may reduce the need for some special education services later in adolescence. While recognizing that no amount of parental involvement will ever reduce the need for special education services in its entirety, the subcommittee members were of the opinion that there are cases where the failure of parents to actively engage their children during their formative years may restrict the children's development and necessitate special education services at a later juncture.

Although there are significant limits to what the state can achieve in regard to motivating all parents to take an active part in their children's early development, the subcommittee would like to encourage the Governor to use every means at his disposal, including the bully pulpit of his office, to foster greater awareness of the crucial role parents play in this regard. By using the prestige of his position in this way, the Governor may be able to address at least one factor that may contribute to the overall need for special education services.

Estimated Cost: None

The subcommittee members were concerned that **public awareness** of special education might be clouded by misinformation or a lack of information. The members proposed the following recommendation as a means of addressing this perceived deficiency:

- (8) Create a working group or Governor's council consisting of parents, teachers, administrators and interest groups to assess problems in the special education field and promote better awareness and understanding of special education. Charge the group with the specific task of:

- Assessing the state's efforts in transitioning special education students from school to work.
- Identifying problems in the current system.
- Recommending solutions.

Justification: The subcommittee members expressed interest in the creation of a standing working group or council capable of studying issues that were either beyond the capacity of the subcommittee to investigate in a short period of time or will arise in the future.

One issue that was of special interest to the members was the notion of transitioning special education students from school to work. Members were curious as to how well the state is performing in this regard. This might be the kind of issue a working group or council could investigate should the Governor choose to create such a body.

Estimated Cost: None

One issue the subcommittee spent considerable time addressing was the issue of **accountability** in the special education system. The members were satisfied with the present level of accountability and wished to make the following statement:

- (9) Reaffirm that there are considerable federal, state and local accountability measures in place to assess the efficacy of the special education system. These measures include significant reporting and testing requirements that go far beyond what is required with general education. This obviates the need for additional accountability measures.

Justification: The subcommittee considered the possibility that the special education system lacks sufficient accountability and oversight.

Having discussed this issue at length, the subcommittee wanted to reaffirm the notion that significant accountability measures already exist to properly measure the success or failure of the special education process:

- The Individualized Educational Program (IEP) is the primary way to measure the success for students with special education needs. The IEP team develops an individualized program of special education and related services for each child. IEPs include goals and objectives against which the IEP team measures the child's success and progress.
- When Congress reauthorized the federal Individuals with Disabilities Education Act in 1997, it required school districts to inform parents of children with disabilities at least as often as parents of nondisabled children of the extent to which their children are making progress. Congress also requires states to include children with disabilities in statewide assessments.
- The federal No Child Left Behind legislation requires states to monitor and report separately the participation and performance of children with disabilities in statewide assessments.
- Wisconsin includes all children with disabilities in statewide assessments (with appropriate accommodations if necessary.) For those students who cannot demonstrate proficiency in the standard assessments, the Department of Public Instruction has developed an alternate assessment which measures performance based on elements of the Model Academic Content Standards. (Some subcommittee members would like to see the department develop and implement a method of recognizing and utilizing the scores/results of those

students who take the assessment in a manner other than the standard administration (i.e. modified or alternative assessment.) Currently, students who take alternative assessments have their scores computed as "zero". This adversely impacts the attendance center where that student is assigned.)

- The Department of Public Instruction conducts post-high school follow-up surveys that provide information about employment, independent living and education of students with disabilities who have graduated.
- Wisconsin Special Education Mediation System attempts to resolve disputes between parents and school district staff in a nonadversarial way. Wisconsin has the highest settlement rates in the nation.

Estimated Cost: None

In discussing general issues related to **paperwork/process**, the subcommittee wished to make several recommendations:

- (10) Encourage standardization in reporting information to the Department of Public Instruction as means of gathering information more effectively. Encourage the department to disseminate the resulting information as widely as possible.

Justification: School districts must report various information to the Department of Public Instruction regarding special education students. The subcommittee wanted to encourage the department to continue to press for standardization in gathering and reporting as a means of building the most comprehensive, verifiable body of information possible.

While the subcommittee was generally satisfied with the department's dissemination of information back to school districts, the members would like the department to make the maximum possible effort to share information and results with school districts. Also, the department should estimate the costs associated with the standardization of data collection and explore the possibility of receiving state funding for this purpose.

Estimated Cost: None

- (11) Review the statutes for potentially obsolete passages, particularly section 115.88.

Justification: The subcommittee members expressed concern that certain portions of the statutes may be obsolete now that the state no longer maintains a 70% sum sufficient reimbursement rate. Members felt that a thorough review of the statutes may be warranted given that certain assumptions originally underpinning various passages may no longer apply.

This might be an ideal task for the group proposed in Recommendation 8, if the Governor should create such a group.

Estimated Cost: None

### **Additional Issue Areas – No Recommendations At This Time**

There were two issues the subcommittee members discussed but made no recommendations for at this time:

- School District Reimbursement Formulas (including pupil weights)
- Overidentification

The subcommittee had several lengthy discussions related to the current special education reimbursement mechanism in Wisconsin (categorical aid) and potential replacements. While the members were quite interested in discussing alternatives to the present system, there was no clear consensus regarding either the efficacy of moving to a different system or the potentially negative impact such a move would have on some school districts.

The subcommittee members were in consensus that the categorical aid funding model can and does work but that the state needs to fund the special education categorical aid appropriation appropriately. This would give school districts a degree of budget stability when providing for the needs of special education students.

The subcommittee also discussed the vexing issue of overidentification. Although the subcommittee members were sensitive to public perceptions that school districts are overidentifying children for special education services, the members were uncertain as to how to measure this problem (or even if it was a problem at all.) As such, no recommendation was made.

If the Governor creates a working group or council to advise him on special education issues, these two issue areas might be topics the group could consider.